THE WEEKLY TALLAHASSEEAN
AND
Land of Flowers.

Published Every THURSDAY, at the Office, Monroe Street, Tallahassee, Florida.

JOHN C. TRICE, Editor and Proprietor.

TALLAHASSEE'S GUESTS.

The members of the Florida Legislature for 1901 have already commenced to arrive. By Monday afternoon they will all be here, unless some few are forced by Providence or other good reasons to delay their coming. At noon Tuesday they will meet, the Senators and members of the lower house in their respective ends of the Capitol, and for the succeeding sixty days will be engaged in Legislation for the advancement of our fair State.

During that time the people's representatives, from every county, will be guests of Tallahasee. This is an honor for which we pardonably feel proud, and it goes without saying that Tallahasseeans will do the honors to perfection, leaving no stone unturned to intersperse with all sorts of pleasantries the arduous and responsible labors the Legislators and attaches have before them.

For the Presidency of the Senate, the Speakership of the House and various other places of honor and emolument there will no doubt be spirited contests. Leon county has no candidates to put forward, and the Tallahasseean, therefore, has viewed the campaign for the two first places named above in silence, believing that to be the best thing to do under the circumstances mentioned, and especially when all things are so near equal that the common interests of the State will be as well preserved by the election of one as the other of the candidates in the field.

In this connection we are pleased to note that no bitterness has been injected into the campaign, and that the prospects are good for a perfectly friendly termination. This is well, for when too much feeling enters into the organization of a legislative body it is apt to have its effect in shaping some and retarding other important measures.

Carefully scanning the list of senators and representatives, most of whom it has been our pleasure to meet in the past, we believe that we can say without fear of successful contradiction that the Legislature of 1901, to assemble so soon, will be the most intelligent body of men, as a whole, that ever assembled in the Florida Capitol in a similar capacity. Efficient action is, therefore confidently expected of them upon the many important measures to come up at this session, and they are expected to pursue business methods from the start, so that no public interest shall suffer for lack of attention.

On behalf of the people of Tallahassee, we bid them thrice welcome to their Capitol City, and bespeak for them a liberal portion of enjoyment, to make their work lighter during their stay among us.

THE COTTON QUESTION.

In this issue we publish a call issued by Hon. B. E. McLin, Commissioner of Agriculture for Florida, which explains itself. The question dealt with in this call—the cotton acreage—is one of more importance than a great many people think. The recent fearful slump in prices, together with the discovery that a great deal more cotton, of last year's crop, is in the hands of the farmers than was at first supposed, has created consternation in many quarters, and immediate action is urged by some of the leading cotton-growing sections to keep the acreage down this year.

Along this line the following from the Quitman, Ga., Advertiser will interest many of our readers:

"There is a momentious question now staring the farmers in the face which must be settled and that too at once. This question is of vastly more importance than politics or any of the many great problems which are constantly being brought before us by politicians and other public men. They are about to place seed in the soil for this year's crop, and they are dependant solely upon their production for an existence, so the all-important question is, 'what shall we plant in order to realize the greatest gain?'

"Cotton has for years been the staple article of this section, and each year the average has increased. The past year brought forth a large production, but the consumption not only kept the the price regular, but sent it to a higher point than it had reached in years. To-day the price is but 8 cents, while on the same day last year it sold for 9 cents. There is a tremendous quantity now on the market, and many speculators are all but bankrupt by the unexpected decline. All who have held their cotton for higher prices have been losers by $20 to $25 per bale, and in all probability they will find that the longer they hold it, the more they will lose.

"We do not pretend to suggest that the acreage on cotton be reduced, as the production cannot be too great if there is a demand for it.

"It is well to endeavor to estimate the production, but in doing this it would be advisable to look into the prospects for demand for next season's crop. The farmer has now to shoulder the cares and responsibilities of the speculator, for which he is dealing in future. Our advice would be, plant enough cane, corn and other products which may be used at home, to fall back on in case your judgment on the cotton question is wrong. With hog and hominy in your storehouses, you will be better prepared to face the losing side of an uncertain problem."

IT RECOILS WITH EFFECT.

The opponents of woman's suffrage are so arrogant that they bring ridicule upon themselves sometimes. The following instance is so good that notwithstanding we are not numbered among the "suffragists," it will bear repeating for the excellent lesson it conveys to that pompous class who think they are the "whole push." It says:

"Opponents of equal suffrage have made a wonderful invention—an elastic yardstick. By a judicious use of it, they propose to prevent women from voting. Whenever any woman does an unwise thing, they charge it against the whole body of women, and gravely affirm that all women are unfit to vote. A few days ago some of the Daughters of the American Revolution, in a contested election, lost their temper and got into a verbal scrimmage, which was telegraphed from Main to Mexico as an evidence of women's unfitness for self-government. The Boston Daily Herald, with owl-like gravity, in a leading editorial, contended that:

"'The Washington action does not render it probable that women with full suffrage rights would be a success in public affairs, since if women are to have the suffrage all women must be admitted to it. The misbehaving Washington women must come as well as the more properly conducting woman suffragists.

"Yet, the same day, the Herald recorded the fact that a number of Irish members of Parliament refused to obey the authority of the Speaker, and had to be forcibly removed by a squad of policemen. Whereupon the Herald remarks that:

"'The rumpus may be taken as proofs that the Irish factions are even more thoroughly united than was supposed, and are starting out to follow the tactics laid down by their great Parliamentary leader, Parnell.'

"Here is the elastic yardstick applied respectively to the Irishman and the woman. The Herald does not propose to disfranchise all Irishmen.

"That very day the Herald chronicled an assault committed by Senator J. H. Geiger, of Montana, upon A. B. Keith:

"'Last night the men met in the lobby of the Senate chamber at the close of the extra session. Geiger rushed at Keith, who struck him a heavy blow on the forehead with a loaded cane. The Senator was stunned. Before he recovered Keith had walked away. Senator Geiger is now searching for Keith with a revolver, having threatened to kill him on sight. A shooting affair is regarded as certain when they meet.'

"But the editor does not suggest the disfranchisement of all the men of Montana; not even of the Montana Senator. Again the elastic yardstick.

"Five days before, 'a fierce fisticuff fight' was chronicled between the German and Czech deputies in the Austrian Reichrath. But nobody suggests that all Germans and Czechs should forever be disfranchised.

"Mrs. Nation enforces Kansas law by smashing illegal saloons. She is cited as an awful example of 'women in politics.' But no one has proposed to disfranchise the illegal liquor dealers, or county officials who refuse to enforce the laws of Kansas."

ABOLISH "TREATING."

Last week we referred to the dispensary law now in force in South Carolina as a good thing for this State, if it accomplished nothing more than the destruction of the infamous "treating" system. The papers, many of them, had not reached their destination before the necessity for stringent measures for the abatement of the system was emphasized in a ghastly manner.

On the main business thoroughfare, right in the heart of the busiest part of the city, almost under the portico of the St. James Hotel, a man was shot and almost instantly killed by an acquaintance of a day, for no other reason, it seems, than that he desired to terminate a day of conviviality commenced over the bar, against the will of the party being treated.

The whole story is too horrible to dwell upon, but it is more forceful argument than anything we could say that the treating system is ten-fold more pernicious than all the other evils connected with the whisky traffic. And this is only one instance of hundreds that are happening every day.

If the approaching Legislature does not give us the dispensary law, let it at least provide some means for abolishing the treating of friends to intoxicating liquors.

Tallahassee institutions, some of them, need a little shaking up. A damage suit or two would be a blessing to the general public and perhaps to the individual bringing it.

Mr. A. S. Wells has received a carload of fine Jersey cattle from the West, which he will put on his stock farm.

SUPREME COURT.

Headnotes to Decisions, June Term, A. D. 1900.

The Atlantic, Suwannee River and Gulf Railway Company, a corporation under the laws of Florida, appellant, vs. The State of Florida, appellee—Bradford county.

Per curiam.

1. Section 5, chapter 4,205 laws, approved June 2, 1893, providing a remedy for enforcing compliance with the requirements of section 1 of that act authorizes the proceedings for that purpose to be instituted and conducted in equity.

2. The Legislature under the police power may in proper cases require railroad companies whose roads cross or meet each other to construct such switches, side tracks and connections as will enable them to transport cars to and from each other's lines. Such regulations do not amount to a taking of the company's property for which compensation must be provided.

3. In the absence of a showing that, as applied to a particular case, section 1, chapter 4,205 laws, approved June 2, 1893, is an arbitrary or unreasonable regulation, the court must assume that it is reasonable, and consequently a valid regulation, passed in pursuance of the police power.

Decree affirmed.

R. H. Liggett, for appellant; W. B. Young, for appellee.

E. L. J. Banks, appellant, vs. Emma Banks, appellee.—Duval county.

Per curiam.

The only foundation for an order for alimony, suit money and counsel fees pendente lite, is the fact of marriage between the parties, and where, at a hearing for such order upon bill filed by the alleged wife there is no proof of the marriage or living together as husband and wife except the allegations of the unsworn bill of complaint, while the defendant by affidavit specifically denies under oath that he was ever married to the complainant and that he ever lived with her as his wife, the court is not justified in making any order for alimony, suit money and counsel fees pendente lite, or for the appointment of a master to ascertain and report sums of money to be allowed for those purposes, with power to take testimony in the premises.

Decree reversed.

Walker & L'Engle, for appellant; Thos. A. Ledwith, for appellee.

Fred. N. Varn, plaintiff in error vs. Asa D. Alderman, defendant in error.—Polk county.

Carter, J.:

Where a county court is organized in a county as authorized by the Constitution, such court has jurisdiction of a suit in that county to recover upon a written obligation for the payment of money, where the demand invilved does not exceed $500, and the Circuit Court of that county has no jurisdiction to entertain original jurisdiction of that suit so long as the county court exists in that county, even though the cause of action sued upon accrued prior to the organization of the county court.

Judgment reversed.

Jefferson Varn, for plaintiff in error; J. L. Albritton, for defendant in error.

A. T. Stubbs, plaintiff in error, vs. The Franklin County Lumber Co., a corporation under the laws of the State of Florida, defendant in error.—Franklin county.

Per curiam.

The authority conferred by section 1,035, Rev. Stats., upon clerks of the Circuit Courts to enter final judgments upon defaults confines them to the entry of such final judgments in suits for money founded upon contracts written or verbal, and such clerks have no power to enter judgment upon a declaration or a count in a declaration in tort.

Judgment reversed.

Fred. T. Myers, for plaintiff in error, no appearance for defendant in error.

W. B. Bonaker, L. B. Boyd, T. J. Minor, D. C. Lancaster and T. L. Hughes, constituting the Board of County Commissioners in and for Polk county, Plaintiff in error, vs. the State of Florida ex rel. Samuel P. McFarlane, relator, defendant in error.—Polk county.

Carter, J.

1. Whenever the Local Option Article of the Constitution has been put in force or active operation in a county by virtue of an election duly called and held, so long as it remains in force no license to sell intoxicating liquors, wines or beer in that county can be granted; and the county commissioners of that county possess no power while that article remains in force to grant a permit to any person which will enable him to secure a license to sell intoxicating liquors, wines or beer.

2. The provisions of section 1, chapter 3,700, laws of 1887, committing the matter of registration of voters for elections held thereunder to deputy registration officers appointed by the clerks of the Circuit Courts, if not superceded by chapter 3,704, laws of 1887, was no longer in force after the passage of chapter 3,879, approved June 4, 1889. After the act of June 4, 1889, became effective and while it remained in force voters at elections held under said chapter 3,700 were properly registered by the supervisors of registration the several counties and their deputies.

eral counties and their deputies.

Judgment reversed.

Eppes Tucker, Geo. P. Raney and Jno. A. Henderson, for plaintiffs in error; no appearance for defendant in error.

J. E. Robeson, plaintiff in error, vs. The First National Bank of Orlando, a corporation, defendant in error.—Orange county.

Carter, J.:

1. Equitable pleas filed in actions at law are properly stricken out on motion, where the matters therein alleged present no equitable defence and are available by pleas at law.

2. Evidnce examined and found insufficient to support the verdict.

Judgment refused.

Jones & Jones, for plaintiff in error; Beggs & Palmer, for defendant in error.

Simeon Strickland, plaintiff in error vs. The Louisville and Nashville Railroad Company, a corporation, defendant in error.—Walton county.

Per curiam.

Appellate practice—Failure to file abstracts of record—Dismissal.

Where there is a total failure to file abstracts of the record as provided for by rule 20 of this court, as adopted September 16, 1895, the writ of error will be dismissed.

The writ of error dismissed.

D. L. McKinnon, for plaintiff in error; Daniel Campbell, for defendant in error.

William Mitchell and Anthony Mims, plaintiffs in error, vs. The State of Florida, defendant in error—Duval county.

Per curiam.

Appellate practice—Failure of plaintiff in error to file briefs—Dismissal.

When the appellate court reaches a criminal cause in its regular order upon the docket for final adjudication and finds that no briefs have been filed by either the plaintiff in error or the defendant in error as provided for by rule 21 of the Supreme Court, the writ of error will be dismissed.

Writ of error dismissed.

Geo. U. Walker, for plaintiffs in error.

Robinson W. Cator, William H. J. Walters, William. H. Pagon, J. McKenney White, James H. Cator, Franklin P. Cator and George Cator, copartners, doing business under the firm name of Armstrong, Cator & Company, appellants, vs. Maurice Emanuel and Adams J. Corbett, as assignee of Maurice Emanuel, appellees.—St. John's county.

Appellate practice—Failure to file abstract of record—Dismissal.

Where there is a total failure to file abstracts of the record as required by rule 20 of this court, as adopted September 16, 1895, the appeal will be dismissed.

Appeal dismissed.

W. W. Dewhurst, for appellants; A. W. Cockrell & Son, for appellees.

Mary A. Simmons, plaintiff in error, vs. T. Harper Bevill, defendant in error.—Alachua county.

Per curiam.

Appellate practice—Where service is made of void writ of scire facias ad audiendum errores, and the defendant in error does not appear, writ of error dismissed.

Where a scire facias ad audiendum errores is made returnable to a day and term of the appellate court that had already passed at the date of the issuance of such writ, and the defendant in error served therewith has not subjected himself to the jurisdiction of the appellate court by any manner of appearance, such writ, and the service thereof, are nullities, and do not give to the appellate court jurisdiction over the person of such defendant in error, and the writ of error will be dismissed.

Writ of error dismissed.

Thos. F. King, for plaintiff in error; no appearance for defendant in error.

Ex-Parte Isaac Gainey, plaintiff in error, vs. The State of Florida, defendant in error.

Per curiam.

Habeas corpus—Bail in homicide.

Section 9 of the Declaration of Rights in the Florida Constitution of 1885 provides that "all persons shall be bailable by sufficient sureties, except for capital offences, where the proof is evident or the presumption great." Where, in a proceeding by habeas corpus brought by a party charged with murder in the first degree to test his right to bail, it appears from the evidence that there is only a "probability" of the guilt of the accused, he is entitled to bail.

Judgment denying bail reversed.

Geo. U. Walker, L. E. Wade and B. D. Hiers, for plaintiff in error; William B. Lamar, for the State.

A. B. Campbell as assignee, and T. D. Gibbens, appellants, vs. The Kauffman Milling Company, appellee.—Duval county.

Taylor, C. J.

Estoppel by election of remedies.

The following rule governing quasi estoppals by the election of inconsistent positions or remedies approved: "A party can not either in the course of litigation or in dealings in pais occupy inconsistent poeitions. Upon that rule election is founded; a man shall not be allowed to approbate and reprobate. And where a man has an election between several inconsistent courses of action, he will be confined to that which he first adopts; the election, if made with knowledge of the facts, is in itself binding; it cannot be withdrawn without due consent; it cannot be withdrawn though it has not been acted upon by another by any change of position."

(Carter, J., dissents on the facts of the case)

Decree reversed.

W. B. Owen and R. H. Liggett, for apellants; A. W. Cockrell & Son, for appellee.

William Craft, plaintiff in error, vs. The State of Florida, defendant in error—Baker county.

Taylor, C. J.

Criminal law—Perjury committed before grand jury—Indictment for.

1. An investigation by a grand jury of a crime that is within its jurisdiction to investigate and to indict for is a judicial proceeding in a court of justice, and perjury committed before them in such an investigation falls within that phase of the crime provided for by section 2,561 of the Florida Revised Statutes.

2. In an indictment for perjury it is an essential allegation that the party charged was duly sworn, and that the oath was administered to him by some one authorized by law to administer such oath.

Judgment reversed.

Leonidas E. Wade, for plaintiff in error; William B. Lamar, Attorney-General, for the State.

The Jacksonville Terminal Company, Plaintiff in error, vs. The State of Florida ex rel. W. B. Lamar, Attorney-General, et al. etc., defendants in error—Duval cunty.

Per curiam.

Appellate practice— Dismissal where all adversity of interests settled between parties.

Where a writ of error is taken by a party against whom a peremptory writ of mandamus has been awarded, and it is made to appear satisfactorily to the apellate court that subsequently to the granting of such peremptory writ the party for whose benefit such writ was awarded acquired by amicable purchase from the party against whom it was awarded all of the rights and privileges sought to be enforced by such writ, and had been amicably let into the possesion and enjoyment of all such rights and privileges by reason of such purchase, irrespective of such mandatory writ, thus obliterating all adversity of interest between the parties, and leaving no further contested issue between them, such writ of error will be dismissed.

Writ of error dismissed.

John E. Hartridge, for plaintiff in error.

County of Duval, plaintiff in error, vs. A. W. Knight, defendant in error—Duval county.

Mabry, J.

1. The face value, or par value, of a bond for the payment of money and interest thereon at any given time

Continued on Eighth Page.